

MARSHELL LANDRUM
15333 CULVER DRIVE 340
IRVINE, CA 92604
808-321-4931
IN PROPRIA PERSONA

MICHAEL W. LANDRUM JR.
1628 E SOUTHERN AVE STE 9 #75
TEMPE, AZ 85282
602-748-6418
IN PROPRIA PERSONA

FILED
JEANNE A. NAUGHTON, CLERK

MAR 31 2025

U.S. BANKRUPTCY COURT
TRENTON, NJ
BY  **DEPUTY**

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

MARSHELL LANDRUM, INDIVIDUALLY
AND AS HEIR OF MICHAEL W LANDRUM
SR. AND MICHAEL W. LANDRUM JR.
INDIVIDUALLY AS HEIR OF MICHAEL W.
LANDRUM SR. INDIVIDUALLY IN
PROPRIA PERSONA.

Movant,

vs.

Rite Aid Corporation, et al.,

Respondent.

Case No. 23-18993 (MBK)

NOTICE OF MOTION AND MOTION FOR
RELIEF FROM DISCHARGE INJUNCTION TO
PURSUE WRONGFUL DEATH CLAIM
AGAINST RITE AID CORPORATION IN
STATE COURT

Chapter: 11
Judge: Michael B. Kaplan

TO THE HONORABLE JUDGE OF THE UNITED STATES BANKRUPTCY COURT:

Movant, Marshall Landrum, respectfully requests relief from the discharge injunction under 11 U.S.C. §§ 524 and 105(a), to pursue a wrongful death action against Rite Aid Corporation in California Superior Court, arising from the death of Movant's father, Michael W. Landrum Sr., on July 23, 2023.

I. BACKGROUND

1. On or about July 21, 2023, Rite Aid Pharmacy dispensed Promethazine DM to the decedent, Michael W. Landrum Sr., at a Rite Aid location in California.
2. On July 23, 2023, Mr. Landrum passed away.

**NOTICE OF MOTION AND MOTION FOR RELIEF FROM DISCHARGE INJUNCTION
TO PURSUE WRONGFUL DEATH CLAIM AGAINST RITE AID CORPORATION IN
STATE COURT**

1 3. Through investigation and discovery from related proceedings, Movant recently discovered
2 that Rite Aid may have failed to provide appropriate warnings, pharmacist consultation, or
3 safety safeguards in connection with the medication.

4 4. Movant alleges that Rite Aid's acts or omissions directly contributed to Mr. Landrum's death.

5 **II. POST-PETITION DISCOVERY OF CLAIM**

6 5. Movant only recently became aware of Rite Aid's potential liability after reviewing discovery
7 materials produced in a separate lawsuit against a physician.

8 6. This is a wrongful death claim that was not known or reasonably discoverable until after the
9 effective date of the bankruptcy confirmation.

10 **III. REQUESTED RELIEF**

11 7. Movant seeks an Order from this Court:

12 a. Modifying the discharge injunction to allow Movant to pursue a wrongful death claim in
13 California Superior Court against Rite Aid;

14 b. Clarifying that such litigation may proceed solely to determine liability and damages, and
15 that collection will be subject to this Court's jurisdiction, if necessary.

16 **IV. LEGAL BASIS**

17 8. Under 11 U.S.C. § 524(a), a discharge operates as an injunction against enforcement of pre-
18 petition claims. However, courts retain equitable power under § 105(a) to lift or modify the
19 injunction to avoid injustice.

20 9. Courts have lifted discharge injunctions when:

- 21 ○ The claim was not known or discoverable at the time of the bankruptcy.
- 22 ○ The movant seeks only to establish liability or pursue insurance proceeds.
- 23 ○ The interest of justice favors allowing the litigation to proceed.

24 **V. CONCLUSION**

25 For the foregoing reasons, Movant respectfully requests that this Court enter an Order
26 modifying the discharge injunction to permit Movant to pursue a wrongful death claim in state court,
27 and for such other and further relief as the Court deems just and proper.
28

1 Respectfully submitted,

2

3

4 Date: 3/24/2025

5

6

7

8

9

10 Date: 3/24/2025

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28



Marshall Landrum,

Plaintiff in Propria Persona



Michael W. Landrum Jr.,

Plaintiff in Propria Persona

Declaration of Marshall Landrum in Support of Motion

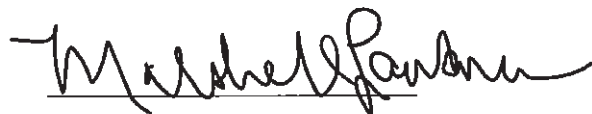
I, Marshall Landrum, declare as follows:

1. I am the surviving child of Michael W. Landrum Sr., who passed away on July 23, 2023, two days after being dispensed a prescription of Promethazine DM from a Rite Aid pharmacy in California.
2. At the time of his death, I was unaware of any wrongdoing or negligence on the part of Rite Aid.
3. Through recent discovery in a lawsuit I filed against the prescribing physician on July 19, 2024, I obtained information indicating that Rite Aid may have failed to provide adequate warnings or pharmacist consultation, and may have dispensed the medication without evaluating the risks to an elderly patient with cardiovascular issues.
4. I did not learn of this potential claim against Rite Aid until after the August 30, 2024 discharge and confirmation date in Rite Aid's Chapter 11 proceedings.
5. I am seeking to file a wrongful death lawsuit in California against Rite Aid to determine liability and pursue justice on behalf of my father.
6. I understand that Rite Aid claims my ability to sue is barred by the bankruptcy discharge, and therefore I respectfully request that this Court lift or modify the discharge injunction so that I may file my claim in state court.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed on March 24, 2025, at Irvine, California.

Date: 03/24/2025



Marshall Landrum,

Plaintiff in Propria Persona

Declaration of Michael W. Landrum Jr. in Support of Motion

I, Marshall Landrum, declare as follows:

1. I am the surviving child of Michael W. Landrum Sr., who passed away on July 23, 2023, two days after being dispensed a prescription of Promethazine DM from a Rite Aid pharmacy in California.
2. At the time of his death, I was unaware of any wrongdoing or negligence on the part of Rite Aid.
3. Through recent discovery in a lawsuit I filed against the prescribing physician on July 19, 2024, I obtained information indicating that Rite Aid may have failed to provide adequate warnings or pharmacist consultation, and may have dispensed the medication without evaluating the risks to an elderly patient with cardiovascular issues.
4. I did not learn of this potential claim against Rite Aid until after the August 30, 2024 discharge and confirmation date in Rite Aid's Chapter 11 proceedings.
5. I am seeking to file a wrongful death lawsuit in California against Rite Aid to determine liability and pursue justice on behalf of my father.
6. I understand that Rite Aid claims my ability to sue is barred by the bankruptcy discharge, and therefore I respectfully request that this Court lift or modify the discharge injunction so that I may file my claim in state court.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed on March 24, 2025, at Tempe, Arizona.

Date: 03/24/2025



Michael W. Landrum Jr.,

Plaintiff in Propria Persona